

Page 1042

1 again this year you are raising the same  
2 issue; is that correct?

3 A. (Escobar) That's correct, yes.

4 Q. (Tyrrell) Thank you.

5 I believe there was some testimony  
6 earlier --

7 A. (Escobar) Before you continue with  
8 the next question.

9 Q. (Tyrrell) I'm sorry.

10 A. (Escobar) I want to expand my  
11 response to this letter. This letter,  
12 obviously Mr. Leonhardt, he is not familiar  
13 with billing systems, and then this why he  
14 make that opinion, would be most prohibitive  
15 to the telephone company. I could say maybe  
16 that is one sentence, a reason or excuse for  
17 the land-line telephone service, but so in  
18 the cellular telephone service, because in  
19 the cellular telephone service, many factors  
20 affect that one-minute billing, and my  
21 complaints and my contention is when you drop  
22 a call, okay, why you going to bill the  
23 consumer for two minutes the telephone call.  
24 That's not right.

25 Also, when you file tariff back in

\*\*\* Notes \*\*\*

Page 1044

1 pending.

2 A. (Escobar) Yes, I am in bankruptcy  
3 court --

4 THE CHAIRMAN: Mr. Escobar,  
5 there is no question pending.

6 THE WITNESS (Escobar): Thank  
7 you.

8 BY MR. TYRRELL:

9 Q. (Tyrrell) Mr. Escobar, do you  
10 recall earlier this morning when Mr. Mizeski  
11 was sitting where you are, we had a  
12 discussion about letters that went back and  
13 forth between -- or I should say from Mr.  
14 Paquette to you with regard to some billing  
15 questions. I guess you had submitted to him.  
16 Do you recall that general testimony?

17 A. (Escobar) Yes.

18 Q. (Tyrrell) Okay. I'd like to show  
19 you, if I may, a copy of the two letters, one  
20 dated January 22nd, 1995, to you from Art  
21 Paquette.

22 THE CHAIRMAN: Mr. Tyrrell,  
23 would you correct that date. We aren't there  
24 yet.

25 MR. TYRRELL: I'm sorry, it

\*\*\* Notes \*\*\*

Page 1043

1 1985, you never told the public utilities how  
2 cellular telephone work, and then was you  
3 know, you were in the Department of Public  
4 Utilities, you were involved in that issue.  
5 They wanted to bill you, they wanted to bill in  
6 one-minute billing, but they don't know  
7 how cellular telephone work. Now this is the  
8 time to review that.

9 Q. (Tyrrell) Thank you for your  
10 critique.

11 I believe there was some testimony  
12 earlier that there was a bankruptcy matter  
13 involving your companies, and also a suit in  
14 state court; do you recall that testimony?

15 A. (Escobar) Yes.

16 Q. (Tyrrell) And is it true that you  
17 are also personally named as a defendant in  
18 the state court matter?

19 A. (Escobar) I think so, yes.

20 Q. (Tyrrell) Thank you.

21 A. (Escobar) You want me to clarify  
22 that question, too?

23 Q. (Tyrrell) No, thank you.

24 A. (Escobar) I'd like to.

25 Q. (Tyrrell) There's no question

Page 1045

1 was -- the Xerox was such that it looked like  
2 a 5, 1993. Correct, Commissioner. And also  
3 another letter from Mr. Paquette to you dated  
4 May 24th, 1995 --

5 MR. KNAG: Ninety-three.

6 MR. TYRRELL: Ninety-three.

7 I'm sorry. Does anybody need copies?

8 BY MR. TYRRELL:

9 Q. (Tyrrell) Do you recall receiving  
10 those letters, Mr. Escobar?

11 A. (Escobar) I will say yes, this is  
12 the letter, if I can read the letter all over  
13 again.

14 Q. (Tyrrell) Certainly.

15 A. (Escobar) It looks like, okay, but  
16 I don't know if that exactly letter.

17 Q. (Tyrrell) I'm sorry, sir?

18 A. (Escobar) I don't know if this is  
19 the exact same letter, but, you know, I need  
20 to read it.

21 Q. (Tyrrell) Please take your time, I  
22 need you to be sure.

23 (Pause.)

24 A. (Escobar) Okay, looks like the  
25 letters.

Page 1050

1 note?  
 2 A. (Escobar) The balance was -- was  
 3 101,000 dollars.  
 4 Q. (Knag) How much interest did you  
 5 pay on that note?  
 6 A. (Escobar) In that note, the  
 7 interest was something about 10 percent, I  
 8 believe so.  
 9 Q. (Knag) And how much dollars did you  
 10 pay in interest, do you know?  
 11 A. (Escobar) Well, I -- I don't what  
 12 to figure out, I know my accountants able to  
 13 figure out what interest. Apparently we pay  
 14 SNET over 6,000 dollars in interests.  
 15 Q. (Knag) Did you have any discussions  
 16 with anyone at SNET at the time that you  
 17 entered into that agreement?  
 18 A. (Escobar) Yes.  
 19 Q. (Knag) And were you promised  
 20 certain things at that time?  
 21 A. (Escobar) Yes, I was promised  
 22 things about that time.  
 23 Q. (Knag) What were you promised?  
 24 A. (Escobar) I was promised advertise  
 25 money for each company, The Phone Extension

\*\*\* Notes \*\*\*

Page 1052

1 have no choice to sign those agreements,  
 2 otherwise my customer be immediate  
 3 disconnect.  
 4 Q. (Knag) They told you that they  
 5 would disconnect your customer unless you  
 6 sign the agreement?  
 7 A. (Escobar) Yes, if you don't agree  
 8 with these terms, the monthly payment, the  
 9 weekly payments, that we will disconnect the  
 10 customers.  
 11 Q. (Knag) Did you have discussions  
 12 about compromising the amount of the debt?  
 13 A. (Escobar) Yes.  
 14 Q. (Knag) And did you speak with  
 15 Mr. -- did you speak with a person at SNET  
 16 about compromising the debt?  
 17 A. (Escobar) Yes.  
 18 Q. (Knag) Who did you speak to?  
 19 A. (Escobar) Mark Bluemling, Peter  
 20 Tyrrell, Donna Tomayo, Charlie Dammling,  
 21 Eddie land-line, almost everybody.  
 22 Q. (Knag) At any point in time in  
 23 those discussions, was a settlement of the  
 24 claim tied in any way to your actions in  
 25 making complaints to the DPUC?

\*\*\* Notes \*\*\*

Page 1051

1 and Escotel Cellular.  
 2 Q. (Knag) How much?  
 3 A. (Escobar) By that time the  
 4 promotion was 50,000 dollars per year per the  
 5 company.  
 6 Q. (Knag) So 100,000 dollars per year  
 7 per company?  
 8 A. (Escobar) No, 50,000.  
 9 Q. (Knag) I mean 100,000 dollars per  
 10 year total?  
 11 A. (Escobar) Total, yes.  
 12 Q. (Knag) Did you get that advertising  
 13 money?  
 14 A. (Escobar) I only had one for one  
 15 company one time only.  
 16 Q. (Knag) Did they tell you that that  
 17 made it -- that was going to make it easy for  
 18 you to pay off the 500,000 dollars?  
 19 A. (Escobar) That's correct, yes.  
 20 Q. (Knag) And did you enter into any  
 21 other agreements with SNET besides that  
 22 agreement, concerning your credit and your  
 23 debt?  
 24 A. (Escobar) Well, in several cases  
 25 SNET put a lot of pressure on me and I don't

Page 1053

1 A. (Escobar) In some instance, there  
 2 was looking to me to sign the -- to settle if  
 3 I sign no disclosure, nothing that they are  
 4 doing wrong.  
 5 Q. (Knag) You had to agree that they  
 6 were not doing anything wrong?  
 7 A. (Escobar) That's correct.  
 8 Q. (Knag) And were you willing to  
 9 agree that they were not doing anything  
 10 wrong?  
 11 A. (Escobar) No.  
 12 Q. (Knag) Did Mr. Bluemling say  
 13 anything to you about the damage was done?  
 14 A. (Escobar) Yeah, he mentioned over  
 15 the phone if I complain to the public  
 16 utility, the damage is done.  
 17 Q. (Knag) And what did you understand  
 18 him to mean by that?  
 19 A. (Escobar) They are going to fight  
 20 me all the way.  
 21 Q. (Knag) So, if you didn't -- if you  
 22 wanted to sell, you better not complain?  
 23 A. (Escobar) That's correct.  
 24 Q. (Knag) Is that what you understood  
 25 him to mean?

Page 1058

1 dollars per month. Then she came with the  
2 excuse, well, I'm not the one to inquire, it  
3 was Bell Atlantic that was to inquire, why  
4 sell it for 28 dollars per month.

5 Q. (Knag) And did you consider that  
6 anticompetitive conduct on their part?

7 A. (Escobar) Yes, I feel that because  
8 if I have a customer right now at 37 dollars  
9 per month, they call the customer and offer  
10 as little as 14.95 and 36 cents a minute or  
11 37 cents a minute.

12 Q. (Knag) Do you know whether --  
13 withdrawn.

14 So, at a certain point in time  
15 recently you were forced into a bankruptcy  
16 filing; is that correct?

17 A. (Escobar) Yes.

18 Q. (Knag) And after you filed the  
19 bankruptcy, did SNET become actively involved  
20 in the bankruptcy?

21 A. (Escobar) Yes.

22 Q. (Knag) And did they attempt, and  
23 are they attempting at the present time to  
24 shut you down by denying you what is called  
25 cash collateral, which is the money in your

\*\*\* Notes \*\*\*

Page 1059

1 drawer?

2 A. (Escobar) That's correct. They  
3 attempt that and many instance also before  
4 this proceeding, three days, four days before  
5 they try to ask me a lot of questions about  
6 this proceeding, and I refused to answer  
7 those questions, and they threaten me they  
8 are going to take me to bankruptcy judge to  
9 answer those questions. I want to reserve my  
10 rights for this proceeding and I'm willing to  
11 answer any questions who are not related to  
12 these proceedings.

13 Q. (Knag) So they used Rule 2004,  
14 which is a bankruptcy court rule, that allows  
15 creditors to question debtors about their  
16 affairs to try to find out information that  
17 was relevant to this proceeding?

18 A. (Escobar) That is correct, yes.

19 Q. (Knag) And they did that on the  
20 days immediately preceding the first hearing  
21 in this case?

22 A. (Escobar) That's correct, yes.

23 Q. (Knag) And, in fact, are there  
24 additional hearings that are 2004  
25 examinations scheduled for this Monday?

Page 1060

1 A. (Escobar) For this coming Wednesday  
2 I think it is.

3 Q. (Knag) Wednesday. And what is  
4 happening on Wednesday?

5 A. (Escobar) Wednesday they want to  
6 link with the attorney in my company, I just  
7 learned by during the lunch, we want to  
8 introduce a new law firm to enter my  
9 antitrust case and SNET opposing to be able  
10 to enter or don't let lawyer enter  
11 appearance.

12 Q. (Knag) So you're planning to  
13 countersue them for antitrust violations?

14 A. (Escobar) That's correct, yes.

15 Q. (Knag) Under the federal and state  
16 antitrust laws; is that correct?

17 A. (Escobar) That's correct, yes.

18 Q. (Knag) Now, you talked about  
19 bundling of services and you complained about  
20 that. Do you consider that an  
21 anticompetitive practice?

22 A. (Escobar) Yes, I consider that  
23 anticompetitive practice.

24 Q. (Knag) And one of the things that  
25 the FCC wants in any state petition to

\*\*\* Notes \*\*\*

Page 1061

1 continue regulation is specific allegations  
2 of fact regarding anticompetitive or  
3 discriminatory practices, you would consider  
4 that such an anticompetitive practice?

5 A. (Escobar) That's correct, yes.

6 Q. (Knag) And would you consider the  
7 billing practices you described  
8 anticompetitive?

9 A. (Escobar) Yes.

10 Q. (Knag) And would you consider the  
11 long-distance practices that you described to  
12 be anticompetitive?

13 A. (Escobar) That's correct, yes.

14 Q. (Knag) And would you consider the  
15 billing activation practices to be  
16 anticompetitive and discriminatory?

17 A. (Escobar) Discriminatory, definite,  
18 yes, anticompetitive, yes.

19 Q. (Knag) Do you consider the fact  
20 that they take information that they learn as  
21 your supplier and then use it against you as  
22 your competitor, mixing the wholesale and the  
23 retail function, to be anticompetitive?

24 A. (Escobar) You want to repeat the  
25 question again, please?

Page 1066

1 A. (Escobar) Well, there are so many,  
2 I can't choose one, but I say the --  
3 structure.

4 Q. (Bryan) Okay. And why do you  
5 consider the rate structure --

6 A. (Escobar) Because the rate --

7 Q. (Bryan) -- For cellular service to  
8 be the most anticompetitive?

9 A. (Escobar) A rate structure which  
10 SNET Springfield has is only benefit SNET  
11 MobileCom, Linx, that's it.

12 Q. (Bryan) And is it the rate  
13 structure which you consider then to be the  
14 primary reason why the market share of  
15 resellers has actually decreased over time,  
16 even though the number of resellers has  
17 increased?

18 A. (Escobar) Yes, because the  
19 resellers are not able to reduce the rate to  
20 the customer. When the customer be  
21 approached by Linx for 14.95, we cannot go  
22 that low.

23 Q. (Bryan) On page 2 of your  
24 testimony, under the heading of "Cost  
25 Subsidization," you discuss advertising, and

\*\*\* Notes \*\*\*

Page 1067

1 the fact that Linx had large Yellow Page  
2 advertisements in every SNET Yellow Page  
3 directory published in the state.

4 Was that for any particular time?

5 A. (Escobar) Well, this being happened  
6 since the inception of the cellular telephone  
7 service. Linx have a priority in the covers  
8 of the telephone books who not one of the  
9 resellers are able to acquire those spaces  
10 and additional, in one of the  
11 business-to-business directory, on the  
12 telephone companies are Linx the one only  
13 been advertise in the telephone service for  
14 cellular provider.

15 Q. (Bryan) I think you also state in  
16 your testimony that it would be quote,  
17 "virtually impossible for an independent  
18 reseller to be able to afford such  
19 advertising."

20 Do you know what the cost of one  
21 large Yellow Page advertisement would be?

22 A. (Escobar) Yes, I have some  
23 information I asked the representative from  
24 the Yellow Pages book to give me. I want to  
25 take advertisement in his telephone books and

Page 1068

1 everyone exactly same size, same space and  
2 same books that Linx have and I want a quote  
3 from him. I have a quote from him.

4 Q. (Bryan) Do you remember what that  
5 quote was?

6 A. (Escobar) I don't remember right  
7 now. I no look at that for a couple of years  
8 but 100,000 dollars who nobody can afford it.

9 Q. (Bryan) Did you say 100,000?

10 A. (Escobar) More than that.

11 Q. (Bryan) More than 100,000 dollars.

12 A. (Escobar) They give me a breakdown  
13 by month. I can provide that information.

14 Q. (Bryan) Okay, if we could have that  
15 as a Late-File Exhibit?

16 A. (Escobar) Yes.

17 THE CHAIRMAN: Late-File 26  
18 then will be the Yellow Pages advertising  
19 quote.

20 BY MS. BRYAN:

21 Q. (Bryan) Do you recall -- or you can  
22 include that in the Late-File Exhibit when  
23 the quote was given?

24 A. (Escobar) Okay, I have the date.

25 Q. (Bryan) In terms of the bundling, I

\*\*\* Notes \*\*\*

Page 1069

1 think you in your direct testimony today, you  
2 indicated that phone equipment is sometimes  
3 sold at the retail level for as little as one  
4 penny?

5 A. (Escobar) Yes, that's correct.

6 Q. (Bryan) Can you tell me what  
7 equipment that was?

8 A. (Escobar) Same equipment we sell  
9 for two or three hundred dollars.

10 Q. (Bryan) Okay. Now, you're saying  
11 that cellular phone equipment is being sold  
12 below the wholesale cost as a result of  
13 commissions and so on. What, generally,  
14 would be the wholesale cost for regular  
15 cellular phone?

16 A. (Escobar) Well, depend on the  
17 equipment. If the cheaper equipment, you can  
18 buy in the marketplace, maybe it's about 150  
19 dollars for a mobile unit, one of the older  
20 units, they may be obsolete coming out of the  
21 marketplace. Hand held phones probably are  
22 in the range of couple of hundred dollars,  
23 179 dollars, I can give you one sample,  
24 Motorola flip phone probably cost 175 bucks,  
25 that phone been sold to them for one penny.



Page 1074

1 we have several problems when the customer  
2 are calling for, I need cellular telephone  
3 service and they operated so immediately they  
4 reroute customer to the Linx, not to our  
5 company. Linx, you know, provide the cellular  
6 telephone service.

7 Q. (Bryan) And that was in what year?

8 A. (Escobar) Early 1985. And continue  
9 to do it today. You try to call today, I  
10 need cellular telephone service, and 90  
11 percent of the time they reroute you and they  
12 give you the telephone number for Linx.

13 My understanding is that which  
14 telephone company — there are several  
15 company services — that at least a telephone  
16 company, you choose which one you want, but  
17 not one of the operator because the SNET  
18 employees assume Linx is the only company and  
19 they immediately give them the telephone  
20 number for Linx.

21 Q. (Bryan) Okay. On page four of your  
22 prefile testimony under the heading,  
23 "Preferential Treatment of In-house Retail  
24 Divisions," you discuss the administration of  
25 the switch for activating and deactivating

\*\*\* Notes \*\*\*

Page 1075

1 cellular telephone numbers or change in  
2 features. I'm a little confused on what that  
3 switch is. Is there one switch for all of  
4 the resellers or just each reseller have a  
5 switch?

6 A. (Escobar) Well, the way they  
7 operate right now is we have to call SNET  
8 Cellular who I don't know if today it's SNET,  
9 Linx or SNET mobility, I don't know today  
10 which is really the company, who really is  
11 the one providing me the service. We call  
12 them and we give it to them the extension  
13 number and mobile number to activate the  
14 number. That process happen sometimes in 20  
15 minutes, sometimes it happens in two minutes  
16 and sometimes it happens in two hours, or  
17 sometimes that no happen at all.

18 Q. What is the advantage to Linx of  
19 having the ability to activate numbers at any  
20 time including on the weekend?

21 A. (Escobar) Well, Linx have access  
22 direct to the switch and billing system and  
23 they can activate the customer at any time.  
24 The process can be done very quickly and can  
25 do it after hours or any time when they wish.

Page 1076

1 Q. (Bryan) So what is the advantage of  
2 that?

3 A. (Escobar) What is the advantage for  
4 Linx? They can respond quickly to the  
5 customer. On Saturdays we cannot activate  
6 numbers, they will activate Saturday numbers  
7 or Sunday or holidays.

8 Q. (Bryan) So would it be fair to say  
9 also that Linx could potentially add new  
10 revenues by being able to hook somebody up on  
11 a Saturday instead of having to wait till  
12 Monday?

13 A. (Escobar) That's correct, yes.

14 Q. (Bryan) Okay. And you recently  
15 found this out how?

16 A. (Escobar) Well, we found it because  
17 a customer came to us and he wanted service  
18 right away on a holiday, and I could not  
19 activate him. Then he called me the next  
20 following day to cancel his order number  
21 because he said, "You lied to me. We could  
22 activate numbers today."

23 Q. (Bryan) And since you became aware  
24 of this practice, which your testimony  
25 characterizes as preferential and

\*\*\* Notes \*\*\*

Page 1077

1 anticompetitive, have you contacted  
2 Springwich?

3 A. (Escobar) Yes, I have been asking  
4 to them many times to give me access to  
5 activate numbers and I offer myself back  
6 three, four years ago to be a guinea pig to  
7 test the system to make available just for  
8 one reseller who is not being working out, be  
9 user to the full potential.

10 Q. (Bryan) And so you still don't have  
11 the ability to activate and deactivate  
12 telephone numbers on weekends?

13 A. (Escobar) That's correct. One of  
14 the reason also they give me, is you too  
15 small, you know, you don't need that.

16 Q. (Bryan) Do you know whether any  
17 other reseller besides Linx has this ability?

18 A. (Escobar) Well, I understand that  
19 all the resellers might have the ability.  
20 They give you the opportunity. I don't know  
21 why they don't execute that.

22 Q. (Bryan) Let me make sure I  
23 understood your testimony. You're saying  
24 that the other resellers besides Linx do now  
25 have the ability to activate and deactivate

Page 1082

1 Q (Bryan) And is it your  
2 understanding that that manual is supposed to  
3 govern your relationship with Springwch  
4 except for any other items, tariff items?

5 A (Escobar) That manual is  
6 thousands — we do business with them, okay,  
7 and there is a section for the tariff and  
8 there is a diagram showing the structure of  
9 cellular business, how Linx is a fully  
10 independent division, but in real life it's  
11 not.

12 MS. BRYAN: I'd like to  
13 request that that manual be provided as a  
14 Late-Filed exhibit. It might be easier to  
15 have Springwch provide it, but if it's not  
16 too burdensome for you, Mr. Escobar, to  
17 provide it, I think that would be appropriate  
18 as well.

19 THE CHAIRMAN: This is the  
20 Springwch manual for resellers, I guess is  
21 the best way to describe it.

22 MS. BRYAN: Yes, and it's  
23 referenced in one of the correspondences.

24 THE WITNESS (Escobar): I  
25 believe it's in the title of Reseller Guide,

\*\*\* Notes \*\*\*

Page 1084

1 THE CHAIRMAN: Thank you, Ms.  
2 Bryan. Mr. Rosario.

3 EXAMINATION

4 BY MR. ROSARIO:

5 Q. (Rosario) A few questions for you,  
6 Mr. Escobar. I realize you've been here a  
7 long time and I don't want to repeat a lot of  
8 questions that you've been asked before.

9 You mentioned an agreement that  
10 other resellers have been asked to sign. Do  
11 you remember that?

12 A. (Escobar) Yes.

13 Q. (Rosario) Is that the  
14 confidentiality agreement?

15 A. (Escobar) Yes. No, not  
16 confidentiality agreement. I'm talking about  
17 the agreement who they give a discount or  
18 pardon fees or take a lien in your customers.

19 Q. (Rosario) Were you asked by SNET to  
20 sign a confidentiality agreement?

21 A. (Escobar) For that purpose?

22 Q. (Rosario) Yes.

23 A. (Escobar) Yes.

24 Q. (Rosario) Did you refuse to sign a

\*\*\* Notes \*\*\*

Page 1083

1 I believe.

2 MS. BRYAN: And I think it is  
3 located in either Late-File Exhibit 24 or  
4 5.

5 THE CHAIRMAN: Okay, then  
6 Late-File 27 will be the Springwch  
7 reseller's guide.

8 MS. BRYAN: I think this is 28  
9 because 27 was the advertising quote.

10 THE CHAIRMAN: No, that's 26.

11 MS. BRYAN: I'm sorry.

12 THE CHAIRMAN: Twenty-four was  
13 the letter and Leonhardt response, 25 was the  
14 two letters, 26 is the Yellow Pages.

15 MS. BRYAN: Okay, got it.

16 Thanks.

17 BY MS. BRYAN:

18 Q. (Bryan) Mr. Escobar, do you want to  
19 file that then?

20 A. (Escobar) Excuse me?

21 Q. (Bryan) Can you file that manual?

22 A. (Escobar) Yes.

23 Q. (Bryan) Okay. All right.

24 MS. BRYAN: Thank you. That  
25 completes my questions.

Page 1085

1 confidentiality agreement?

2 A. (Escobar) Yes.

3 Q. (Rosario) Would that  
4 confidentiality agreement prohibit you from  
5 telling people about Springwch's prohibition  
6 against you switching customers to Metro  
7 Mobile, would that confidentiality agreement  
8 prevent you from talking about that?

9 A. (Escobar) There is a section for  
10 that, yes.

11 Q. (Rosario) Do you know if any  
12 other —

13 A. (Escobar) No say specific to Metro  
14 Mobile, but other carrier.

15 Q. (Rosario) Okay. To your knowledge,  
16 have any other resellers been asked to sign a  
17 confidentiality agreement?

18 A. (Escobar) I believe so. Almost  
19 every reseller in Connecticut have sign the  
20 agreement. Probably the only reseller who  
21 does not sign the agreement is GTE Motorola, and  
22 the other companies because they know they  
23 can't sign them, but I even include, I  
24 believe, a reseller who say 1993 have three  
25 customers, I think, so he have agreement

Page 1090

1 But in my situation, when the customer I  
2 have, I had customers who are not happy or  
3 are dissatisfied with SNET, then I lose that  
4 customer and they totally -- I lose that  
5 business.

6 Q. (Knickerbocker) So are you saying  
7 that you don't typically steer a customer to  
8 one wholesaler versus the other?

9 A. (Escobar) I provide my services to  
10 the customer, depend where he is located and  
11 what is the best telephone service for his  
12 basic use.

13 If you going to tell me you live in  
14 Westport, that town, the majority calls you  
15 make, they are in Westport, that town, I  
16 would recommend the B system, because the A  
17 system is very bad in that area.

18 On the other hand, the customer  
19 come and say to me, I'm in the Fairfield area  
20 or the Greenwich area, I going to say the  
21 customer, the A system is the best for you.  
22 I try to give the best system for my  
23 customer.

24 Q. (Knickerbocker) So from the point  
25 of view of the end-use customer, there are

Page 1091

1 competitive differences between the two  
2 carriers?

3 A. (Escobar) There are two  
4 carriers are -- they have a lot of difference  
5 in the territory they cover, the area they  
6 cover, how fast they can correct any problems  
7 or the overload of the system.

8 Q. (Knickerbocker) And also according  
9 to Mr. Mizeski's testimony, from the point of  
10 view of the reseller, there are also  
11 competitive differences between the two  
12 carriers in such matters as equal access,  
13 refunds and things of that nature?

14 A. (Escobar) That's correct, yes.

15 MR. KNICKERBOCKER: Thank you.  
16 I have nothing further.

17 THE CHAIRMAN: Mr. Tyrrell.

18 MR. TYRRELL: Yes, I have just  
19 a couple of questions on recross, some of the  
20 other questions asked after I had my  
21 opportunity would deal further than I was  
22 able to cover on my cross.

23 THE CHAIRMAN: Okay. Mr.

24 Ryan.

25 MR. TYRRELL: Just a couple of

\*\*\* Notes \*\*\*

Page 1092

1 questions, that's all they are.

2 MR. RYAN: We have recross.

3 We haven't had redirect yet.

4 THE CHAIRMAN: You want  
5 redirect before recross?

6 MR. RYAN: No, I don't want to  
7 ask any questions.

8 THE CHAIRMAN: There is no  
9 redirect, for the record. Continue.

10 BY MR. TYRRELL:

11 Q. (Tyrrell) Mr. Escobar, you had  
12 testified, Mr. Knag was asking you questions  
13 about discussions and meetings you had with a  
14 group of people, I guess, Mr. Dammling, Mr.  
15 Lindblad, Mr. Bluemling, I take it from the  
16 types of discussions that you are referring  
17 to, it was in a time period from 1990 to  
18 1994; is that approximately correct?

19 A. (Escobar) No, before that, too,  
20 also.

21 Q. (Tyrrell) Okay. And with regard to  
22 the agreements that you were asked to sign or  
23 not sign, we're talking from 1990 to 1994?

24 A. (Escobar) From, I can say from 1989  
25 on.

Page 1093

1 Q. (Tyrrell) And during all that time  
2 you were represented by a law firm, were you  
3 not?

4 A. (Escobar) Not all the time.

5 Q. (Tyrrell) You were during the  
6 discussions about the agreements, though?

7 A. (Escobar) In some, I signed in the  
8 instance of the agreement, by myself.

9 Q. (Tyrrell) And was Mr. Ryan  
10 representing you for a number of years?

11 A. (Escobar) In some of those  
12 instances, yes.

13 THE CHAIRMAN: Anything  
14 further?

15 Thank you, Mr. Escobar, you  
16 are excused. We'll take a break till about  
17 20 till.

18 (Witness excused.)

19 THE CHAIRMAN: When we come  
20 back, I guess Mr. Bluemling, Mr. Brennan and  
21 Dr. Hausman are going to come forward. We  
22 are going to try and settle the matter on  
23 production of materials and then go into  
24 scheduling as well.

25 (Whereupon, a recess was taken)

\*\*\* Notes \*\*\*

## APPENDIX C



TE

my C

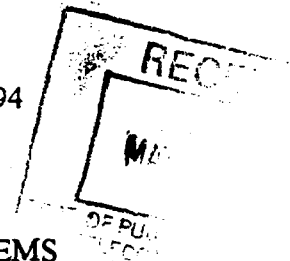
STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC UTILITY CONTROL

IN RE:

DOCKET NO. 94-03-27

DPUC INVESTIGATION INTO THE  
CONNECTICUT CELLULAR SERVICE  
MARKET AND THE STATUS OF COMPETITION

MAY 6, 1994

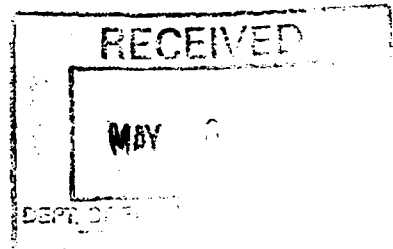


TESTIMONY OF JAN MIZESKI  
DIRECTOR OF MANAGEMENT AND BILLING SYSTEMS  
ESCOTEL CELLULAR, INC. AND THE PHONE EXTENSION, INC.

Mr. Chairperson and Members of the Department of Public Utility Control:

My name is Jane Mizeski and I am the Director of Management and Billing Systems for Escotel Cellular, Inc. and The Phone Extension, Inc. I am here to present several issues for your considerations from the perspective of a reseller which we feel indicates a strong need for continued regulation of the cellular industry in Connecticut.

I have 13 years of experience in the telecommunications business. Starting in the customer premise equipment manufacturing business. I was responsible for call accounting products both on the telephone and call accounting system side in addition to Voice Mail/Call Processing Equipment and Key, Hybrid, and PBX telephone systems. This has given me extensive experience in dealing with switch call record formats, outputs, and procedures



94-03-27

as well as experience in the architecture, design, and operation of call accounting/billing products.

Both in my present position and as Vice President of Escotel Software, Inc., and having worked for Tie/Communications as a project manager this experience has given me a thorough background in billing systems in the cellular industry and qualifies me to point out several problems inherent with the billing system of both carriers.

The systems of both carriers are, in my opinion, unfair to both the consumer and resellers, I will also discuss the issues of roaming and long distance telephone service, and hopefully, when I have completed my presentation, you will have a clear picture of why we feel strong regulation by your department is necessary.

#### BILLING PROBLEMS

Billing problems are most prevalent in two categories:

1. Overlapping Calls
2. Dropped Calls
3. Cellular Message Service (Voice Mail)

#### Overlapping Calls

Overlapping calls can generally be defined as those calls where a cellular customer is being billed for the same minutes or minutes of air time twice.

Springwich and Bell Atlantic Mobile both bill in full one minute increments. If, for example a customer makes a call,

at 10:00:00.0 AM and the call lasts until 10:01:00.1AM or 1 minute and 1/10 of a second the call is billed as a 2 minute call. If the customer makes a second call at 10.01.04.0 A.M. and the lasts until 10:02:00.1 AM or 56 1/10 seconds the consumer is billed for a 2 minute call. For sake of clarity please let me impress on you 2 points. The two calls are less than 4 seconds apart and that the minute in time 10:01AM is being billed twice, also that the consumer is being charged for a full minute for 10:02 although only 1/10 of a second in minute 10:02 is actually being used.

You should be aware of the fact that the magnetic tapes which the carriers deliver to the resellers show the calls within one-tenth of a second, so the technology exists and, in fact, is already in place for the carriers to bill consumers in less than 1 minute which is far more fair to the consumer. However, even assuming the carriers agreed to bill in one-half minute or thirty second increments we estimate 80% of the overlapping call problems would be eliminated.

Another type of overlapping call problem involves calls where multiple minutes of calls overlap each other. Exhibit 1 shows a call detail from one of our Springwich accounts which clearly shows this type of problem. We have never received an explanation from the SNET engineers or billing personnel as to how this problem occurs, but it is clear that a defect in the software that monitors the switch allows this problem to go undetected. Unless a customer meticulously examines every call on

every bill, the likelihood is that the customer is going to pay for these overlapping calls, which is simply not right.

This solution to the problem of overlapping calls lies in requiring the carriers to adjust the billing time increments.

#### DROPPED CALLS

Anyone who is a regular user of a cellular telephone has experienced the frequently, repetitive, problem of losing calls in the middle of conversations. Some dropped calls are the result of limitations on radio transmission and reception in general, such as topographic or meteorological conditions.

However, the greatest number of dropped calls are the result of technological deficiencies within the cellular systems of both carriers. These deficiencies consist of software problems at the switch and in the case of Springwich, an apparent design defect within the system which creates an inability to fully accommodate the less powerful handheld and transportable cellular phones which now account for approximately 70% of all new cellular phone sales.<sup>1/</sup> Another problem is that due to an insufficient number of cell sites, the areas of full coverage claimed to be served by each carrier is not true. Of course, the lack of an adequate number of cell sites further compounds the problem with portable transportable units.

At one time several years ago, the SNET Cellular network maps showed areas of coverage with areas where service was

---

1/ Source Cellular Marketing, March 1993, Page 44.

marginal clearly shown. We at Escotel would use the brochure as a sales tool by pointing out to the customer that SNET was being more honest than Metromobile about its coverage area. When we received new map brochures from SNET without the marginal areas delineated, I called our reseller liaison person who told me that she had been asked by other resellers marketing and sale people to eliminate the marginal areas on the map so they could compete better with Metromobile. This indicated to me that the carriers are aware of the coverage problem but are just not moving quickly enough to add necessary cell sites to upgrade the service quality.

Whatever their cause, these dropped calls present problems for both consumers and resellers. The consumer has the irritation of having to place the call again or to await receiving the second call and also gets billed for the full minute during which the call was dropped as well as the time it takes to reestablish the point of the conversation once the second call connection is made.

On calls involving long distance charges, a dropped call is even a more serious problem because it involves a different rate structure for the first minute of the second call. As with landline toll charges, the first minute is billed at a higher rate than the following minutes.

These calls account for the greatest percent of customer dissatisfaction, and, at least, under the Springwich system the customer has the burden of initiating the credit request.



The system for attempting to obtain credit from Springwiche is basically as follows:

1. The customer must request credit from us, and must circle the defective call on their bill and return the bill to us. We then must forward a copy to Springwiche.
2. We then have to complete a credit request form setting forth the mobile telephone number requesting the credit; date and time of call; number called; reason for credit request.
3. We then forward this information to SNET Cellular and request credit. To the best of my knowledge we do not receive credit for any of the defective calls that we have requested.

I should point out that in the short period of time that we have been a reseller for Bell Atlantic Mobile, we have found them to be much easier to deal with. They merely have us send in a copy of the customer's bill with the defective calls circled and send a letter requesting the credit. They then issue the credit without problem.

You should be aware that no one is claiming credit for the entire call, since obviously that call had a value up until it was dropped but the consumer should receive credit for the minute the call was dropped.

From the consumers perspective, the system is an unfair burden due to the nature of cellular usage. Generally, the cellular customer is using the phone while on the go and does not have the time or the ability to instantly call for credit or to record the data that Springwiche demands. This results in many minutes of unfair charges being billed to the customer.

From the reseller perspective, this credit request system is overly cumbersome. At a recent meeting between Esotel Cellular and Springwich, a senior executive informed us that it is an internal policy that calls redialed to the same number within a 5 minute window should receive 1 minute of credit. Furthermore, this executive established this policy for Springwich some time ago and the current revenue assurance manager stated in the same meeting that he was unaware that this policy ever existed. This is contrary to the position that Springwich has taken with us to-date, and we have been unable to obtain credit for these calls. It is our belief that SNET Mobile Com, Inc. (Linx) does not have to go through the same arduous procedure, and, if this is the case, this is an unfair advantage over the other resellers. Please refer to Exhibit 2.

We have developed our own in-house billing software which allows us to isolate calls made to the same number within an any time window. We feel that at least 95% of redialed calls made within a 2 minute window are the result of dropped calls. I have attached Exhibit 3 to show the total numbers of such calls during a typical monthly billing cycle. It would be fairer to allow us to strip at least one minute from these calls before they are billed to the customer to eliminate the burden on the customer and to ensure that the reseller obtains the proper credits.

Roaming Calls

Any call made by a cellular customer while outside his "home" area is a roaming call. For our customers, the "home" area is anywhere in the State of Connecticut and portions of Massachusetts. When a cellular customer uses a cellular phone while roaming the customer incurs an average per minute airtime roaming charge of \$0.50 and since the majority of roaming calls are made back to the home area or elsewhere and additional long distance land charge is also incurred along with local roaming taxes. In addition depending on the area where the customer is using the phone on a per day access charge of up to \$3.00.

The same problems of overlapping and dropped calls can and do occur while the customer is roaming. The main difference is that Springwich claims that it cannot give credit to a customer or a reseller for these calls, since they only act as a "conduit" for the service. This leaves the reseller without recourse.

In order to retain the customer, the reseller must give credit for the problem calls but the reseller remains liable to Springwich for the roaming charges. The reseller is not a party to the roaming agreements negotiated between the carriers and therefore cannot obtain credit directly from the carrier where the problem call took place.

Since the carriers exchange credits and charges for roaming calls between themselves by using two major clearing houses, we assume that if Linx wanted to obtain credit for

problem roaming calls it does so under the general umbrella of Springwiche. This is an example of how a reseller can be at an unfair advantage compared with a carrier affiliated reseller which erodes the benefits of a competitive marketplace.

I would also like to report that so far Bell Atlantic Mobile has given us credit for problem roaming calls when requested and apparently they do not consider themselves to be only a "conduit."

#### CELLULAR MESSAGE SERVICE (VOICE MAIL)

Cellular Message Service, commonly referred to as voice mail is provided by the Carriers as an option feature for an additional monthly charge. Voice Mail works in the following manner:

If a party calls a cellular customer who has this option and the customer does not answer the telephone the voice mail system plays a personalized greeting to the caller and then offers to take a message.

In the case of Springwiche the cellular customer is charged airtime for any calls that are answered by Voice Mail. The problem for the consumer with this system is that an airtime charge applies for a full minute even though the calling party does not leave a message. Unfortunately the Springwiche system does not provide a method for the cellular consumer to disable this feature at will. This results in many unfair airtime charges to the consumer which could be partially eliminated by providing a customer activation/deactivation feature. The full

94-03-27

solution would be for Springwich to read Voice Mail/Switch call data and not charge for incoming Voice Mail calls that have no information content.

In the case of Bell Atlantic a cellular customer is not charged for airtime when a calling party reaches Voice Mail. The customer is, however, charged when accessing voice mail to check for any messages. The fault in this system is that Bell Atlantic does not provide the consumer the means to be notified if a message has been left in the Voice Mailbox. Many wasted calls are made and charged for by Bell Atlantic which is simply unfair to the customer.

#### Long Distance

Here , again, I am confining my remarks to our experience with Springwich as Bell Atlantic has an equal access policy in effect. As members of the panel are aware, land line phone customers have equal access or, in other words, the ability to select the long distance carrier of their choosing. Springwich has taken the position that it does not have to grant the same equal access rights to cellular users of its system.

Springwich exclusively uses SNET America to provide long distance telephone service to cellular customers on the B system. This obviously works to the advantage of Springwich and to the disadvantage of the consumer. The bills for wholesale long distance service provided to Springwich system customers are in 6 second increments which is normal wholesale long distance billing. However, Springwich bills the same calls in full one minute intervals.

Obviously, this is an area of potential abuse to the consumers and is in need of strong, active scrutiny by this Agency.



94-03-27

Conclusion

In considering the issues that I have discussed it is easy to fall into the trap of minimizing the extent of the problems. After all, you might say, your talking about mere minutes. In order to properly assess the damage that is done to the consumers of this state you must think in terms of the total number of subscribers using the cellular networks of both carriers, which is approximately 170,000 customers. On the average, these customers incur a monthly bill of \$79.00 which translates into 13.4 million dollars per month. Based on our experience we conservatively estimate that the total percentage of problem calls is at 15%. This means that the consumers should be receiving credit totaling \$2,.01 million per month. You will see from the answers filed by Springwich to the interrogatories the amount of credit they have extended to their customers is considerably less.

What each of these areas which I touched on proves is simply that one of the carriers, Springwich, cannot be relied upon to police its own conduct. In order to effectively protect the consumers of this state and to provide the benefits of a competitive marketplace to those consumers, it is absolutely necessary that this Agency continue to regulate the cellular industry in Connecticut and display the same strong and active leadership it has shown on the land line side. Thank you for you consideration.

Subscribed and sworn to this

\_\_\_\_ day of May, 1994:

---

Commissioner of the Superior Court

## APPENDIX D

1 within the SNET corporate structure?

2 A. (Bluebling) I'm also the president  
3 of TNI Associates, Inc., which is a paging  
4 operation in New Jersey.

5 Q. (Knag) Can you tell me where is  
6 your office, Mr. Brennan?

7 A. (Brennan) My office is at 555 Long  
8 Wharf Drive in New Haven, Connecticut.

9 Q. (Knag) Mr. Bluebling, where is your  
10 office?

11 A. 555 Long Wharf Drive, New Haven  
12 Connecticut.

13 Q. (Knag) Same place?

14 A. (Bluebling) Yes.

15 Q. (Knag) What floor?

16 A. (Bluebling) 7th floor for me.

17 A. (Brennan) 8th floor for myself.

18 Q. (Knag) Where is the office of  
19 LINX?

20 A. (Bluebling) LINX office is  
21 essentially on the 7th floor of the same  
22 building.

23 Q. (Knag) So is that the same floor  
24 you're on?

25 A. (Bluebling) It is.

1 Q. (Knag) Now, are there any people  
2 who have titles of LINX and also titles in  
3 other subsidiaries or affiliates of SNET?

4 A. (Bluebling) LINX, I don't believe  
5 there is anyone that holds a title in LINX  
6 and a title in another part of the business.

7 Q. (Knag) Is there any physical  
8 separation designed to insure that  
9 information from your part of the business  
10 doesn't get transmitted to LINX?

11 A. (Bluebling) Physical separation  
12 would probably be limited to doorways and  
13 partitions.

14 Q. (Knag) And people from the LINX  
15 group walk through your area all the time; is  
16 that right?

17 A. (Bluebling) All the time, no. I  
18 wouldn't say all the time.

19 Q. (Knag) From time to time?

20 A. (Bluebling) They are free to walk  
21 through.

22 Q. (Knag) They are free to walk  
23 through and people from your area walk into  
24 the LINX area?

25 A. (Bluebling) Correct.

1 Q. (Knag) Now, Mr. Bluemling, you said  
2 that one of your functions was to advise on  
3 the pricing of cellular services.

4 Can you expand on what that  
5 function involves?

6 A. (Bluemling) Pricing of wholesale  
7 cellular services as outlined in the tariffs,  
8 basically deals with the wholesale rate  
9 structure that we offer in Connecticut, and  
10 the application of those rates and  
11 regulations to our resell customers.

12 Q. (Knag) And have you ever discussed  
13 with anyone at LINX as to what pricing they  
14 should or might impose?

15 A. (Bluemling) Pricing in the sense of  
16 retail pricing?

17 Q. (Knag) Yes.

18 A. (Bluemling) Yes.

19 Q. (Knag) And with whom have you  
20 discussed that subject?

21 A. (Bluemling) I've discussed that  
22 subject with the officers of the company.

23 Q. (Knag) And is that part of your  
24 function?

25 A. (Bluemling) It is.



1 Q. (Knag) So you're not only involved  
2 in setting the wholesale prices, you're also  
3 involved in setting the resale prices; is  
4 that right?

5 A. (Bluebling) I can be involved in  
6 setting the retail prices.

7 Q. (Knag) What factor s do you  
8 consider in setting retail prices?

9 A. (Bluebling) What factors do I  
10 consider?

11 Q. (Knag) Yes.

12 A. (Bluebling) I consider the  
13 competitive market factors as the retail  
14 level.

15 Q. (Knag) And how long -- are you  
16 familiar with the history of the LINX pricing  
17 for retail customers?

18 A. (Bluebling) The history of it? In  
19 what way?

20 Q. (Knag) What the monthly service  
21 charge was for basic service now and in the  
22 past?

23 A. (Bluebling) Sure.

24 Q. (Knag) And can you tell me -- when  
25 LINX first started service, what was the LINX

1 basic charge for a telephone number.

2 MS. KIDDOO: Objection, your  
3 Honor. We are getting into, as I was worried  
4 that we might, the issue of retail pricing  
5 here.

6 What is at issue in this  
7 proceeding is the issue of Springwiche  
8 Cellular's wholesale services and whether or  
9 not those wholesale services should be rate  
10 regulated. The issue of what LINX, an  
11 affiliated retailer, sells to end users is  
12 totally irrelevant to the issue that is  
13 before this Commission.

14 THE CHAIRMAN: I see a  
15 slightly different issue and that is, is  
16 there a separation between the wholesale and  
17 the retail? So I'm going to overrule the  
18 objection and allow this line of questioning  
19 to continue a little further.

20 BY MR. KNAG:

21 Q. (Knag) What was the LINX basic  
22 charge for numbers, monthly service charge  
23 when they first started the service?

24 A. (Bluebling) 38 dollars a month.

25 Q. (Knag) And what is it today?